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JUL 21 2005

TECHNOLOGY CENTER 3800

In re application of	:	DECISION ON PETITION
Robert R. Sutter JR. et al.	:	TO MAKE SPECIAL
Application No. 10/797,294	:	(INFRINGEMENT)
Filed: March 10, 2004	:	
For: FOLDABLE HEAD RESTRAINT	:	

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 13, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 13, 2004 lacks requirements 2(A) above. Regarding requirement 2(A), it is not clear from petitioner's statement if he is stating that "there is an infringing device or product actually on the market or method in use".

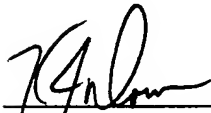
In view of these deficiencies, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should

indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

A handwritten signature in black ink, appearing to read 'K. Dorner', is positioned above a horizontal line.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 07/19/05